BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17197
[Redacted] Petitioner.)	
)	DECISION
)	
)	

On January 3, 2003, the [Redacted] of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), reducing the requested refund for the taxable year 2000 to the total amount of $23.

On March 7, 2003, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not respond to the Tax Commission's hearing rights letter and has provided no additional information for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayer filed a 2000 Idaho income tax return showing no income. However, attached to the Idaho return the taxpayer included copies of his W-2 wage statements showing earnings in excess of $5,100. The taxpayer also included thirteen points as to why his Idaho and federal income tax returns showed zero income and why he was entitled to a full refund of the withholdings made on his wages.

The taxpayer's return was identified during processing as a return with potential errors; therefore, it was referred to the Tax Discovery Bureau (Bureau). The Bureau reviewed the return, [Redacted] corrected the return, and sent the taxpayer a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination. The taxpayer stated that he disagreed with the Bureau's statement that he did not file a return. He said he filed the wrong form and

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[Redacted]

provided a copy for a Form 66 - Idaho Fiduciary Income Tax Return. The taxpayer stated the Form 66 supersedes [Redacted] (and Idaho form 40) that he did file.

The Bureau referred the matter for administrative review and the Tax Commission sent the taxpayer a letter giving him two options for having the Notice of Deficiency Determination redetermined. The taxpayer did not respond. Therefore, the Tax Commission decided the matter based upon the information available.

The original return the taxpayer filed reported his income as zero. However, it is clear from the W-2 wage statements that the taxpayer did have income. In addition to the income shown on the W-2 wage statements, the Bureau found, [Redacted] that the taxpayer received unemployment compensation in 2000. The combination of the W-2s and the unemployment compensation put the taxpayer's income in excess of the filing requirement thresholds of Idaho Code section 63-3030. Therefore, the taxpayer was required to file an Idaho income tax return.

The return the Bureau prepared for the taxpayer included the W-2 wage statements and the unemployment compensation the taxpayer received. The return essentially corrected the original return filed by the taxpayer by reporting all his income. However, in the taxpayer's appeal, he stated he filed the wrong form. He then submitted a fiduciary return for [Redacted] wherein the taxpayer, [Redacted], was the fiduciary or trustee. The fiduciary return reported the wage income of [Redacted], showed the income as being distributed to the beneficiaries, and requested a refund of all the withholdings made on [Redacted] wages.

Idaho Code section 63-3030 states that a return shall be filed by fiduciaries and receivers in accordance with the provisions of section 6012(b) of the Internal Revenue Code (IRC). IRC section 6012(b) provides that fiduciary returns are to be made by fiduciaries and receivers for the returns of decedents; for persons under a disability; for a receiver, trustees and assignees for

corporations; for returns of estates and trusts; and for joint fiduciaries. A fiduciary is defined in IRC section 7701(6) as a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person. Fiduciary is a term which applies to persons who occupy positions of peculiar confidence toward others, such as trustees, executors, and administrators. A fiduciary is a person who holds in trust an estate to which another has the beneficial title or in which another has a beneficial interest, or receives and controls income of another, as in the case of receivers. A committee or guardian of the property of an incompetent person is a fiduciary (26 C.F.R. section 301.7701-6).

In this case, the taxpayer is claiming to be an agent or fiduciary for himself or his personal estate. This does not fit the definition of a fiduciary as defined by the IRS. Under the IRS' definition, the taxpayer does not qualify because a fiduciary represents someone else as his or her trustee, executor, administrator, receiver, or guardian. Here, the taxpayer is only representing himself. Therefore, a fiduciary return is not the proper return to report the taxpayer's income.

In addition to the fiduciary return not being the proper return, the taxpayer stated on the fiduciary return that all the income was distributed to the beneficiaries. Assuming [Redacted] is also the beneficiary, [Redacted] would be required to report the distribution on his personal individual income tax return. Therefore, if the taxpayer were allowed to file a fiduciary return, he would also have to file an individual income tax return reporting the distributions stated on the fiduciary return.

WHEREFORE, the Notice of Deficiency Determination dated January 3, 2003, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the Tax Commission refund to the taxpayer the following tax, penalty, and interest:

YEAR	TAX	PENALTY	INTEREST	TOTAL REFUND
2000	$ 23	$ 0	$ 0	$ 23

An explanation of taxpayer's right to appeal this decision is enclosed with this decision.

DATED this _____ day of _____, 2003.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that I have on this _____ day of _____, 2003, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]   Receipt No.
[REDACTED]

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